

### **Remarks**

This proposed amendment is submitted under 37 CFR § 1.116 in response to the Final Office Action dated 09 February 2005 in the above-identified application, and as follow-up to the 14 April 2005 telephone interview between Applicants' attorney, Jack Hamilton, and Examiner Raman and Supervisory Examiner Faile. Applicants thank the Examiners for granting that interview and for agreeing to consider this proposed amendment, which Applicants respectfully submit will place the application in condition for allowance or, in the alternative, in better form for appeal.

Per the telephone interview, Applicants propose the above amendments to independent claims 1 and 11 to more clearly distinguish the present claimed invention from the combination of Chappell and Kekic cited in rejecting claims 1-15 as obvious. Proposed new claims 16 and 17 correspond to the "smart scanning" logic of the system and corresponding method discussed in the interview, wherein the claimed system has the ability to expand testing of and/or more frequently test nodes identified as inadequately performing nodes through prior monitoring. Support for these amendments can be found beginning at the bottom of page 48, and more particularly from line 29 of page 49 through line 4 of page 50.

Applicants respectfully submit that the proposed amendments to claims 1 and 11, which find support at least at lines 9-19 of page 4 and lines 23-25 of page 19, more clearly indicate that *automatic, periodic testing* that Applicants' system performs, which is based on previously defined testing routines created based upon user input data, is quite different from the technician-initiated spectrum analyzer sweep-testing disclosed by Chappelle or the general "polling" of Kekic.

Chappell's testing of a CATV system is not automated in a sense that the testing is the direct result of a field technician request for ingress testing. The presently claimed invention assists in automatically generating percent advisory and critical alarm indicators during the execution of channel test plans automatically generated and run based on user inputs. The specification explains that the controller is configured to enable *creation of* and display of the

channel plan and test plan based upon user inputs.<sup>1</sup> The specification states that "channel plan 56 encompasses all the expected values for all the services operating on a given node and all the information necessary to configure analyzer tests automatically."<sup>2</sup> The advantageousness of the system is described with respect to the challenge presented in configuring correctly the ingress measurements of the spectrum analyzer 12, "...control process software 26 takes care of the details regarding configuring each measurement. By configuring the various measurement parameters for the analyzer 12 from the channel plan 56, the control process software 26 ensures that the measurements are taken accurately and consistently."<sup>3</sup>

Neither of the Kekic and Anderson references teaches use of *warning interface logic* for *automated channel testing* of a network that would entail *automatically* taking measurements of *nodes each having a number of channels* through the use of a spectrum analyzer. Rather, Kekic represents a rules based expert system for network management running in a client server environment. Further, Kekic references the usage as being Graphical User Interface centric, requiring human approvals to the actions taken, as opposed to the autonomously initiated actions taken by the present system that may be dynamically initiated by predetermined test and channel plans without human intervention. Again, this is part of the novelty of the invention.

Applicants again thank the Examiners for considering the proposed amendments above, which Applicants respectfully submit will put the application in a condition for allowance. As discussed during the telephone interview, Applicants understand that a Request for Continued Examination will be required to actually enter the proposed amendment. The Examiner is invited to call the undersigned in the event that any questions exist regarding the amendments proposed herein.

It is Applicants' belief that there no fees are presently required for consideration of this response, however, if any fees are deemed necessary, Applicants authorize such fees be charged to Deposit Account No. 50-1078.

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<sup>1</sup> Specification page 4, ll. 9-19

<sup>2</sup> Specification, page 19, ll. 23-25


<sup>3</sup> Specification, page 20, ll. 3-8

The following information is presented in the event that a call may be deemed desirable by the Examiner:

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Dated: April 27, 2005

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Applicants

By:   
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Under 37 C.F.R. 1.34(a)